



# EZHR QUICK GUIDE: FIVE FAIR REASONS FOR DISMISSAL

NOT ANOTHER FIVE  
HR CONSULTANCY

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**Sometimes  
dismissal is the  
only option, but  
the lines can get  
a little blurred  
when it comes to  
the reason for  
dismissal.**

**Here we share  
the 5 you need to  
know about and  
when they apply.**

# 1

## Conduct/Misconduct

Minor issues of misconduct should always be handled by speaking informally to the employee and putting measures in place. However, when behaviours escalate or persist, disciplinary warnings can be given on grounds of misconduct.

Continuing misconduct however will always eventually result in a dismissal. Very serious issues such as theft, or discriminatory behaviours are usually regarded as gross misconduct.

A gross misconduct finding will always result in the employee's summary dismissal (i.e. dismissal without notice) and this is the only occasion where you can legally dismiss without notice.



## Capability

Capability can include ill health, for example, if an employee has a persistent or long-term illness that makes it very difficult to do their job. Before any dismissal of this kind, the employer must consider how the employee can be supported and have considered other options.

Poor Performance is when an employee is not capable of performing their role to a satisfactory standard. An employer will need to have followed their performance management process prior to dismissal of this kind.

It is not possible in either situation to dismiss without having first worked through all the stages of the relevant procedures.

# 3

## Redundancy

A redundancy is when the employer requires fewer (or no workers), examples can include if a business is closing down, if there is less work for employees to do, if there is a location change, if the role or function is not longer required or if there is a re-organisation of the work or organisation.

Dismissal on grounds of redundancy can only take place after the appropriate consultation has taken place. The process of redundancy usually takes a minimum of 2 weeks and often is more likely to be 4-6 weeks as the organisation works through the appropriate procedure.

it is always the job that is made redundant not the person. Redundancy is not an a dismissal option if someone is showing poor conduct or you've decided you don't like them anymore!



# 4

## Breach of a statutory restriction

Never heard of this one? you're not alone.

It's not used very often but comes into play when continuing to employ someone would mean you are breaking the law. For example if an employees right to work in the UK expires - you would be breaking the law by continuing to employ them.

You still need to follow a formal dismissal procedure before using this as a reason for dismissal. This reason for dismiss is also known as Statutory Illegality.

# 5

## Some other substantial reason

If you're thinking 'That's a bit vague' you'd be right. This is used for all of the dismissals that don't fit neatly into the other four categories.

Here are a few examples:

- if an employee doesn't agree with their terms and conditions
- If there is a personality clash that causes a substantial issue in the business
- If there is a significant conflict of interest
- Expiry of a fixed term contract

If you are dismissing on the grounds of SOSR you must have a solid case to do so, if you don't you could come a cropper if you end up at tribunal where the reasonableness of your case will be thoroughly tested. Don't be fooled into thinking this is a catch all.





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